

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Patrick Edward Wilcock,

Petitioner

V.

Jo Gentry, et al.,

Defendants

2:17-cv-02101-JAD-CWH

Order Screening Petition and Granting Motion for Appointment of Counsel

[ECF Nos. 1-1, 2, 3]

Pro se petitioner Patrick Wilcock is serving a 44-years-to-life sentence after he was convicted of first-degree murder, burglary with a deadly weapon, robbery, possession of stolen property, and two deadly weapon enhancements.¹ Now he petitions for a writ of habeas corpus, arguing that his due-process, equal-protection, fair-trial, and effective-assistance-of-counsel rights were violated during his trial.² He has paid the filing fee, I have screened his petition, and the petition will be docketed and served on respondents. If Wilcock failed to include a claim for relief in his petition, then he may be forever barred from seeking federal habeas relief on that claim.³

Wilcock also moves for appointment of counsel.⁴ There is no constitutional right to appointed counsel for a federal habeas corpus proceeding.⁵ The decision to appoint counsel is

¹ ECF No. 1-1 at 2; NEVADA DEP’T OF CORRECTIONS, <https://doc.nv.gov/Inmates/Home/> (last visited Dec. 6, 2017) (inmate search by name Patrick Wilcock or by offender ID 1099336).

² ECF No. 1-1.

³ See 28 U.S.C. § 2254(b) (2012) (successive petitions).

4 ECF No 2

⁵ *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993).

1 generally discretionary.⁶ But counsel must be appointed if the claims are so complex and the
2 petitioner is so uneducated that denying counsel would amount to a denial of due process.⁷
3 Wilcock is serving a 44-years-to-life sentence, and some of the legal issues that he wishes to
4 raise may be complex, so I grant his motion.

5 Accordingly, the **Clerk of Court** is directed to **DETACH and FILE Wilcock's petition**
6 **[ECF No. 1-1]** and **ELECTRONICALLY SERVE** it on the respondents. The **Clerk of Court**
7 is also directed to **ADD Adam Paul Laxalt**, Nevada Attorney General, as counsel for
8 respondents.

9 IT IS FURTHER ORDERED that Wilcock's motion for appointment of counsel **[ECF**
10 **No. 2]** is **GRANTED**. The Federal Public Defender (FPD) for the District of Nevada is
11 appointed to represent Wilcock.

12 The **Clerk of Court** is directed to **ELECTRONICALLY SERVE** the FPD a copy of
13 this order, together with a copy of the petition for a writ of habeas corpus **[ECF No. 1-1]**. The
14 **FPD has until January 5, 2018**, to file a notice of appearance or to indicate to the court its
15 inability to represent Wilcock in these proceedings.

16 After counsel for Wilcock has appeared, the court will issue a scheduling order that will,
17 among other things, set a deadline for the filing of an amended petition.

18 IT IS FURTHER ORDERED that Wilcock's motion for leave to file excess pages **[ECF**
19 **No. 3]** is **GRANTED**.

20 DATED: December 7, 2017.

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22 U.S. District Judge Jennifer A. Dorsey

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26 ⁶ *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986); *Bashor v. Risley*, 730 F.2d 1228, 1234
27 (9th Cir. 1984).

28 ⁷ See *Chaney*, 801 F.2d at 1196; see also *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970).